

82nd ACER Board of Regulators Meeting

Thursday, 16 May 2019

Palatul Patriarhiei, Aleea Dealul Mitropoliei, nr. 25, Bucharest 040163, Romania

Minutes (final)

Member States	Name ^[1]	Member States	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer O: Christine Materazzi-Wagner	Italy (ARERA)	M: Clara Poletti (Chair) A: Francesco Cariello O: Ilaria Galimberti
Belgium (CREG)	M: Koen Locquet O: Geert Van Hauwermeiren	Latvia (PUC)	M: Rolands Irklis O: Lija Makare
Bulgaria (EWRC)	A: Evgenia Haritonova	Lithuania (NCC)	M: Inga Žilienė
Croatia (HERA)	M: Tomislav Jureković A: Sonja Tomašić Škevin	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	O: Christina Zouvani	Malta (REWS)	(excused)
Czech Republic (ERO)	M: Martin Šik O: Jana Haasova O: Vladimír Vlček	Netherlands (ACM)	A: Remko Bos O: Wieger Wiersema
Denmark (DUR)	A: Mads Lyndrup	Poland (URE)	A: Małgorzata Kozak
Estonia (ECA)	O: Marilyn Tilkson	Portugal (ERSE)	M: Pedro Verdelho O: Natalie McCoy
Finland (EV)	(excused)	Romania (ANRE)	M: Dumitru Chiriță O: Florin Tobescu
France (CRE)	A: Jean-Laurent Lastelle O: Michaël Mastier O: Rébecca Radereau O: Romain Charvet	Slovakia (RONI)	A: Marian Záhora
Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Slovenia (AGEN-RS)	A: Bojan Kuzmič
Greece (RAE)	A: Nektaria Karakatsani	Spain (CNMC)	M: Fernando Hernández
Hungary (HEA)	A: Attila Nyikos O: Ádám Krinszki	Sweden (Ei)	M: Anne Vadasz-Nilsson A: Caroline Törnqvist
Ireland (CRU)	M: Paul McGowan	United Kingdom (Ofgem)	M: Andrew Burgess
ACER	Alberto Pototschnig, Fay Geitona, Sander Ramp		
European Commission	Oliver Koch		

[1] M: Member – A: Alternate – O: Observer

MEETING CONCLUSIONS SUMMARY of the 82nd BoR

1. *The minutes from the 81st BoR meeting were approved, as was the agenda for the 82nd BoR meeting. No conflict of interest was declared by the participants.*
2. *The Director referred the BoR to the recent publications by the Agency. The BoR was informed about the outcome of the two BoR electronic procedures on the Agency's Decision on the incremental capacity project proposal for the Mosonmagyaróvár interconnection point.*
3. *The Director reported on the discussions with ENTSOG on the Transparency Platform data in terms of the importance of the reliability and quality of the data. The Director urged NRAs to consider that ENTSOG's costs for the improvement of the completeness and quality of the Transparency Platform data as incurred in the interest of a well-functioning internal gas market. The EC provided an update on the selection process for the new ACER Director. The exact timing of the interviews at the Agency is not yet known..*
4. *The EC reported on the ongoing work on the implementation aspects of the Clean Energy Package (CEP), which are also discussed in the Electricity Cross Border Committees.*
5. *The BoR was informed about the outcome of the Network Code Implementation Monitoring Group meeting of 5 April. Discussions at the meeting included; the implementation of NCs, Transparency Platforms and monitoring tasks, and the endorsement of the informal guidance of the NC/GL amendment process.*
6. *The BoR Chair informed the BoR about the outcome of annual conflict of interest policy review, which was concluded by the BoR Review Panel on 3 May 2019. The Review Panel did not identify any conflicts of interest and concluded that no action by the Agency or the BoR needed to be taken. Where potential or perceived interests were declared and considered by the Review Panel to be potentially relevant, the Chair has written to the respective NRA.*
7. *The BoR discussed the preliminary draft consultation paper on gas market design and sector coupling. The BoR provided feedback on the specific issues identified in the paper and noted the need for a thorough analysis to provide evidence on the identified problems and any market failures. The majority of the BoR members reconfirmed their commitment to finalise an ACER Recommendation to communicate to the new EC on those issues, subject to the alignment with the CEER consultation paper both in terms of timing and consistency of the messages. The BoR considered several options to do so. To this end, the BoR Chair, the Director and the CEER President will coordinate on how best to achieve this and make a proposal to the BoR including on the timing for the consultation, also taking account of the progress in the evaluation of responses on the CEER paper and the input from the workshop in June. **In parallel, the preparation of the paper will continue on the basis of the BoR feedback. Written comments on the paper must be submitted by 24 May.***

A restricted roundtable (by invitation only) will be organised on 5 June (09.00-11.30) at CNMC, to have an informal exchange of views on some of the key questions to be raised by the consultation paper.

8. *The BoR discussed the preliminary procedural arrangements for the BoR deliberation on the Director selection and provision of the BoR opinion which must be complemented by further details on the interviews to be communicated after the AB meeting. **The BoR provided its agreement in principle to the proposed preliminary arrangements. The definitive procedural arrangements will be submitted for agreement, if possible, at the June meeting, or through electronic procedure or, alternatively, at the July BoR meeting.***

9. ***The BoR provided feedback and approved the independent section on regulatory activities of the ACER Annual Activity Report 2018. The Report will be submitted for adoption to the AB.***

10. *The BoR had an orientation discussion on the key areas for imminent revision of the BoR Rules of Procedure (RoP). These short-term “must-do” adaptations are urgent so as to have a robust process in place in line with the new ACER Regulation, in particular with regard to the preparation of acts under the process set out in Article 24(2) of the ACER Regulation. There are additional issues to be considered which, whilst important, can be addressed in a longer term given they are not fundamental for the imminent operation of the BoR.*

The BoR provided a steer on the options under consideration including on the following issues: the definition of observer in the RoP; the clarification of the special status of the EEA countries following the decision of the joint committee; the possibility and modalities for sessions with members only the new obligation to inform the EP about the BoR draft agenda and minutes; the process for the preparation of acts under Article 24(2) and the timing for the submission of Director’s proposals; the possibility to explore a flexible approach on the basis of the overall timing for the preparation of the ACER acts; the possibility for proposals for amendments by each and every member and issues related to the BoR discussion particularly on controversial amendments; the role of the Chair to order them and the need for a distinction between substantial comments and simple comments and editing; the scope of the Guidance to the Director and the AWGs and whether this should be restricted; the process for the BoR electronic procedures and the agreement on its use. The BoR noted the need for the introduction of a sunset clause in order to review the RoP on the basis of the experience gained in their implementation.

Written comments on the issues included in the cover note must be provided within a week (by 23 May) in order to implement the RoP modifications for submission to the June BoR meeting.

11. The BoR discussed the revision and alignment of the ACER Working Groups (AWG) RoP and the formal establishment of the AWGs. **The BoR approved the draft (joint) BoR and Director proposal for the formal establishment of the Electricity and Gas AWGs.** The AWGs RoP to be revised will apply to these two AWGs which are formally established according to the ACER Regulation recast. Given that a new ACER Director should be appointed by January 2020, the overall structure of the AWGs as well as a broader adaptation of their rules could be considered again later on. Until then, the existing AMIT WG and REMIT CG will operate under the current regime and the relevant Director Decisions.

With regard to the adaptation of the AWG RoP for the two AWGs, the BoR provided its input regarding quick-fix adaptations ahead of the formal proposal of the Director on the AWGs RoP, which will be submitted to the AB, which will subsequently seek the BoR favourable opinion. Key issues raised during the discussion included: the procedure for the appointment the AWGs Chairs; the roles on the definition of the milestones and deadlines for the activities of the AWGs; the reinforcement of the provision on the location of the meetings of the AWGs with the introduction of the prior approval by the Director. The BoR suggested the introduction of a sunset clause to allow a revision of the RoP, in due time, on the basis of the experience gained. **Written comments on the RoP can be submitted within one week (by 23 May).**

12. The BoR was informed on the agendas and preparations for the Infrastructure Forum (23-24 May), the Gas Regulatory Forum (5-6 June), and the Electricity Regulatory Forum (17-18 June).

13. Mr Hernández updated the BoR members on the ongoing work of the Agency's Electricity Working Group and the priorities set out with regard to the implementation work following the CEP. He provided an update on the upcoming methodologies under the Electricity Balancing Guideline raising the timing and the complexity for the adoption of the "all NRAs" decisions by August which are likely to include requests for amendments.

14. The BoR discussed the transitional period of all regulatory authority decisions, which are to be decided by the Agency following the entry into force of the ACER Regulation recast and, in particular, the treatment of proposals that have already been submitted to NRAs by the time the ACER Regulation recast enters into force. This is also relevant for the upcoming methodologies under the Electricity Balancing Guideline. The legal context regarding the transitional period and whether the NRAs' relevant decisions following the entry into force of the Regulation would be valid is not clear.

15. The BoR was updated on the ACER Decisions on the methodology for Coordinating Operational Security Analysis and on the methodology for Relevant Asset Outage Coordination, of which the drafting is still in progress. In particular, the BoR was informed on a number of issues relating to these Decisions, including the common probabilistic risk assessment; the handling of uncertainties; the requirements on coordination and information exchange between RCs; and the interpretation of Article 76(1) of the System Operation Guideline.

16. The BoR was informed about the Agency Opinion on the consistency of the National Development Plans (NDP) with the EU Ten-Year Network Development Plans (TYNDP) (electricity). The Agency concludes that the NDPs are broadly consistent with the EU TYNDP and their consistency has further improved compared to the previous Agency's Opinion on the NDPs. However, the Agency formulates several recommendations to enhance the consistency between the NDPs and the EU TYNDP. **The BoR took note of the Agency Opinion.**

17. Mr Verdelho updated the BoR members on the ongoing work of the Agency's Gas Working Group and, in particular, the work of the Balancing and Tariffs Task Forces. The Tariffs TF is finalising the review of issues where the NRAs are responsible for the publication in accordance with Article 29 (Commission Regulation (EU) 2017/460).

18. The BoR was informed on the Agency's Annual Report on Contractual Congestion at Interconnection Points (6th edition) which aims to identify contractual congestion at Interconnection Points in the European Union for products sold during 2018 for use in 2018, 2019 or 2020. The Report provides several recommendations including policy recommendations to the European Commission. **A final round of written comments is open until the next AGWG on 22 May.**

Part A: Items for discussion and/or decision

1. Opening

1.1. Approval of the agenda

BoR Decision agreed: (D 1)

The agenda was approved. No conflict of interest was declared.

1.2. Approval of the minutes of the 81st BoR meeting

BoR Decision agreed: (D 2)

The minutes of the 81st BoR were approved.

2. Updates from the ACER Director, EC and BoR Chair

2.1. Update from ACER

[Latest publications](#)

The most recent publications were included in the BoR's meeting guide. The BoR was also informed on the basis of a circulated note about the outcomes of the electronic procedures on the Agency's Decision on the incremental capacity project proposal for the Mosonmagyaróvár interconnection point. The first single-round BoR electronic procedure ended on 26 March 17:00 CET. 25 members participated, five members voted against, five members abstained. The BoR favourable opinion was not provided, as the required 2/3 majority was not reached. Subsequently, a second BoR electronic procedure on the draft

decision was launched which ended on 9 April 13.30 CET. 26 members participated, 20 members were in favour of a favourable opinion on the draft ACER Decision. Four members voted against and two members abstained. One member voted in favour, but after the deadline. The BoR favourable opinion was deemed to be granted.

[Data Agreement for ENTSOG](#)

The Director reported on the discussions with ENTSOG on the Transparency Platform data and the importance of the reliability and quality of the data. Work by ENTSOG on data quality might increase ENTSOG's budget and therefore its members' fees, which are in many cases questioned by the respective NRAs. To this end, the Director urged NRAs to consider that ENTSOG's costs for the improvement of the completeness and quality of the Transparency Platform data as incurred in the interest of a well-functioning internal gas market. No BoR member objected to this approach without prejudice to the NRAs' autonomy in the review of the national cost review procedures.

The Chair noted that this issue has been also raised at the last NC IMG meeting which concluded that NRAs need to assess the cost recovery related to the Transparency Platform development costs given their responsibility for ensuring compliance of national entities with their legal obligations, including enforcement in case of non-compliance (with regard to data quality and to restrictions to the use of data).

2.2. European Commission

[Update on the ACER Director selection process](#)

Mr Koch provided an update on the selection process for the new ACER Director. The EC expects to adopt the short list and thus the exact timing of the interviews at the Agency is not yet known. This is likely in autumn. The Clean Energy Package (CEP) is expected to enter into force mid-July. With the entry into force of the ACER Regulation recast there will be new rules for the BoR quorum. The new Regulation sets out a 2/3 majority for the provision of the BoR opinion.

Mr Koch reported on the ongoing work on the implementation aspects of the CEP, which are also discussed in the Electricity Cross Border Committee. This includes, among other issues; third countries' participation and the implementation of the 70% cross-zonal interconnector capacity target. The EC expects that the discussions on the alignment of the CACM Guidelines with the CEP will start in the second half of 2019, with the aim to develop a common understanding and find agreement. These extensive discussions and consultations are likely to lead to the EC bringing proposals to Comitology around the start of 2020.

[Report on the NC IMG \(5 April\) \(conclusions\)](#)

The BoR received a brief report on the 5 April NC IMG meeting which focused on the implementation of Network Codes, the Transparency Platforms and the Network Codes/Guidelines amendment process. The conclusions were circulated, as well as the informal Guidance on the Network Code and Guidelines amendment process which was endorsed by the NC IMG. The next meeting of the NC IMG will take place on 12 July.

2.3. Update from the BoR Chair

Conflict of Interest policy: review of Declarations of Interest (Dols) – note for info

The BoR Chair reported that the BoR Review Panel, on 3 May 2019, finished the assessment of the Dols of BoR Members and Alternates and of the Agency's Working Groups' and Task Forces' leadership. The Review Panel did not identify any conflicts of interest and concluded that no action by the Agency or the BoR is required, notwithstanding the application of the provision in the BoR Rules of Procedure which requires that BoR Members and Alternates must declare explicitly at each Board meeting any potential conflict of interest with respect to any point on the agenda. Where potential or perceived interests were declared and considered by the Review Panel to be potentially relevant, the Chair has written to the respective NRA.

Furthermore, the Review Panel discussed potential improvements to ensure consistency in the level of detail of the documentation as well as its timely collection. In the future, those who are subject to the Conflict of Interest policy will be requested to provide particular focus in their declarations on the recent past (typically the last five years), to ensure the correct templates are used and filled in completely, and to submit those in a timely manner. Efforts will be made by the Agency to further facilitate the collection of Dols and CVs as of next year.

3. **Gas and sector coupling paper**

3.1. Draft consultation paper on gas market design and sector coupling

The Director and the Chair introduced the state of play in the preparation of the paper. The draft document which was circulated is intended for internal use. The *ad hoc* group, which met on 16 May, discussed the issue of the coordination with the CEER consultation paper and the need for alignment of the messages. At this stage there seem to be some overlaps between the two papers. The Director noted the aim to finalise the paper in autumn, in time for the new EC. Therefore, the planning is to seek the BoR favourable opinion on the ACER Recommendation in October.

Mr Crouch presented the four strategic areas identified in the paper. These issues do not necessarily reflect the areas where legislation must change, but areas which present challenges.

In the circulated draft document the state of play and challenges are set out under each area, as below, along with a proposed response and some consultation questions.

- Targeted regulation: in the near term, while the Gas Target Model is generally working well, there are some markets where competition is not effective and consumers' interests are threatened. Thus a targeted approach is proposed on the basis of a thorough analysis of the problems.
- Cross border charges and capacity allocation: in the medium and longer term, as long term capacity contracts expire, the current system of gas transmission tariffs may have an adverse impact on cross-border gas trade and on competition between gas and electricity..
- Sustainable energy future and corresponding governance: again there are some overlaps with the CEER paper. Enabling new products: It seems clear that a sustainable future needs decarbonised gases and new technologies (such as power to gas), but the current regulatory framework was not designed with these activities in mind and the lack of regulation for these areas may have unintended

consequences, acting as a barrier or hindrance to their development. Though the aim of energy regulation is to have a predictable framework it is hard to be prescriptive.

- Infrastructure development, investment and governance in a sustainable future: the old roles and responsibilities may no longer be fully appropriate. In particular, what was a natural monopoly may now be competing with other services. The BoR provided feedback.

The BoR provided detailed feedback. The discussion focused in particular on the chapters concerning targeted regulation; cross border charges (raising the complexity of this issue, the correlation between liquid hubs and cross-border tariffs and the need for a reasonable approach in terms of cross-border tariffs as well as the importance of their cost reflection); and improvements in infrastructure planning and governance, including strengthening regulatory oversight.

The Director thanked the BoR for the feedback and noted that there are indeed different views around the table on the issues under consideration. The majority of members confirmed their commitment to work towards an ACER Recommendation, while three members did not. In terms of the alignment, the Director noted that we must aim to launch a consultation by the end of June or mid-July at the very latest. The Director invited comments in writing by 24 May. At the restricted roundtable in June the aim is to put forward questions to stakeholders, rather than answers, which are to be developed after the BoR feedback. For the June BoR meeting, a revised version of the paper, representing a first draft of the consultation paper, is foreseen.

The Director, the BoR Chair and the CEER President will discuss how to achieve the alignment including on timing and make a proposal. In parallel, the preparation of the paper will be pursued on the basis of the feedback by members.

4. Items for BoR opinion, endorsement or agreement

4.1. Procedural arrangements for BoR deliberation regarding the Director selection and provision of the BoR opinion

The BoR Chair presented some preliminary proposals for the BoR procedural arrangements with regard to the first stage of the hearings for the selection of the new ACER Director as well as the second stage, which is the adoption of its formal opinion. These proposals are based on those agreed during the previous process, with appropriate revisions to accommodate the new provisions on the quorum for the provision of the BoR opinion as set out in the ACER regulation recast, which is expected to enter into force soon and other revisions on the basis of suggestions by members.

The proposed procedural arrangements are, nonetheless, neither definitive nor exhaustive, given that these must be complemented following the information expected from the AB on the practicalities for the interviews and the exact timing.

The BoR agreed in principle on the proposed preliminary arrangements. The definitive procedural arrangements will be submitted for agreement at the June meeting if possible. Given that the AB meets on 13 June (after the 12 June BoR) they may be submitted subsequently through electronic procedure or, alternatively, at the July BoR meeting.

4.2. ACER Annual Activity Report 2018 – independent section on regulatory activities for approval

The Director presented the independent section of the ACER Annual Activity Report (AAR) on regulatory activities under Article 13(12) of the ACER Regulation. The ACER Annual Activity Report reflects on the activity and regulatory achievements of the Agency during 2018. The draft report was sent for comments to the AGWG Chairs.

The BoR discussed and approved the report.

5. **Cross-sectoral**

5.1. Key areas for revision BoR Rules of Procedure

The BoR Chair presented the key areas in the RoP that need adaptation as soon as possible. The first category covers the short term “must-do” adaptations to have a robust process in place in line with the new ACER Regulation, particularly for the preparation of acts under the process set out in Article 24(2) and to adapt the BoR’s mandate to the new responsibilities as set out in the ACER Regulation recast. The second category covers issues which relate to working practices (e.g. regional considerations) which, whilst important, can be addressed in a longer term given they are not fundamental for the imminent operation of the BoR.

The BoR provided feedback on the basis of the options and proposals set out in the cover note by the Chair.

On the basis of the BoR orientation discussion and the BoR written comments the necessary modifications to the Rules will be implemented for discussion at the June BoR

5.2. Draft proposal for the formal establishment of the Working Groups and the modification of the Agency’s Working Groups’ Rules of Procedure, following the ACER Regulation recast

The Director presented the draft proposal for a decision on the establishment of the Agency’s Electricity and Gas WGs. He explained that the priority is the formal establishment of those AWGs which are involved in the preparation of ACER Acts under Article 24(2), as soon as the CEP enters into force. These AWGs are the Agency’s Electricity and Gas Working Groups.

The BoR approved the (joint) BoR and Director proposal for the formal establishment of the Electricity and Gas AWGs.

Furthermore, the Director presented the modification of the AWGs RoP according to the new process which will only apply to the Electricity and Gas AWGs which will be formally adopted according to the ACER Regulation recast. Given that a new ACER Director should be appointed by January 2020, the overall structure of the AWGs as well as a broader adaptation of their rules could be considered again later on. Until then, the existing AMIT WG and REMIT CG will operate under the current regime and the relevant Director’s decisions.

The BoR provided its input ahead of the formal proposal of the Director on the AWGs RoP, which will be submitted to the AB, which will then seek the BoR favourable opinion, including on the appointment of

the Chairs of the AWGs, the definition of milestones, the introduction of a sunset clause and the location of the meetings.

The Director clarified that the milestones and deadlines are related to the overall execution of the AWGs tasks and the Director is responsible for implementing the Work Programme and must ensure the timely delivery of the Agency's deliverables. In this respect he sees his role differently from the assignment of tasks which is the responsibility of the Director and the BoR. The Chairperson appointment is not addressed in the ACER Regulation recast and thus was not considered as a "quick fix". Regarding the location of the meetings, the existing RoP already require AWG meetings to be convened in Ljubljana and only exceptionally elsewhere. Given the new recital in the ACER Regulation recast that Ljubljana is the centre of the activities of the Agency, the Director would like to reinforce the existing provision. Some meetings could be hosted in Brussels, but other places would need to be chosen only in exceptional circumstances. In all cases, when meetings are not convened in Ljubljana, prior authorisation of the Director will be required.

The BoR Chair suggested the introduction of a sunset clause and clarified that if there was no agreement on the modification of the rules, the existing rules would apply. With respect to the location of the meetings the Chair noted the budgetary considerations.

Written comments on the draft revised RoP should be provided within one week, by 23 May.

5.3. Preparations for the European Electricity and Gas Regulatory Forums and the Infrastructure Forum

The BoR was informed on the agendas of the Infrastructure Forum which will take place from 23 to 24 May, the Madrid Forum which will take place from 5 to 6 June and the Florence Forum will take place from 17 to 18 June.

6. Electricity

6.1. Important AEWG updates

Mr Hernández provided an update on the AEWG's strategic meeting which took place on 23 April. Mr Hernández focussed particularly on the CEP Implementation and a priority list of key procedures (from the AEWG's perspective). He explained that implementation of all issues, in time and in detail, with high quality seems to be impossible with the available resources. Hence, priorities (high-medium-low) for the CEP implementation have been given, addressing the relevant sub-structures existing within the AEWG. The list was briefly set out: adequacy assessment - implementation plan – capacity remuneration mechanisms (high priority); bidding zone review – capacity calculation – action plan (particularly the 70% transmission capacity target) (high priority); regional coordination centres (high priority); transmission & distribution tariffs (medium priority); crisis scenarios – crisis plans – adequacy forecast (medium priority); RES integration, flexibility, active customer (low priority); and new Network Codes (low priority).

[Update on upcoming electricity balancing methodologies](#)

Mr Hernández provided an update on a set of electricity balancing methodologies, which are rather complicated yet fundamental, and are already under consideration by the regulatory authorities (the deadline for national decisions is 11 August 2019).

Mr Hernández explained that these methodologies are complicated as there are different models to operate TSO systems in Europe, as a result of local and historical reasons, leading to strong diversity in the current national balancing markets design.

6.2. Transfer of the all regulatory authority decisions to the Agency after the entry into force of the ACER Regulation recast

Mr Hernández referred to the transitional period of transferring all regulatory authority decisions to the Agency as a result of the entry into force of the ACER Regulation recast. There are still differing interpretations, and hence legal uncertainty, regarding what would happen to proposals that have already been submitted to NRAs by the time the ACER Regulation recast enters into force. This is of relevance also for the Electricity Balancing methodologies, which have already been submitted to NRAs under Regulation (EC) No 713/2009.

6.3. Update on the ACER Decisions on the methodology for Coordinating Operational Security Analysis and on the methodology for Relevant Asset Outage Coordination –PPT presentation

The Director provided an update on the Agency Decisions on the methodology for Coordinating Operational Security Analysis and on the methodology for Relevant Asset Outage Coordination. On 21 December 2018, the proposals of the electricity TSOs on the methodology for Coordinating Operational Security Analysis (CSAM) (Article 75 of Commission Regulation (EU) 2017/1485), and on the methodology for RAOCM (Article 84 of Commission Regulation (EU) 2017/1485) were referred for decision to the Agency by all National Regulatory Authorities. The deadline for these decisions is 21 June 2019.

The Director focussed particularly on a number of issues regarding the ACER Decision on CSAM. The Director set out the rationale of the referral; NRAs explained that TSOs did not provide a satisfactory level of detail on the following key topics: (i) principles for common probabilistic risk assessment in accordance with Article 75(1)(b) of the SO Regulation; (ii) handling of uncertainties in accordance with Article 75(1)(c) of the SO Regulation; (iii) requirements on coordination and information exchange between regional security coordinators in accordance with Article 75(1)(d) of the SO Regulation.

The Agency publicly consulted on the CSAM and the aforementioned identified issues in January 2019. During the extensive consultation with TSOs and NRAs several new issues were identified, which resulted in significant changes.

The inclusion of all cross-border relevant remedial actions in the optimisation (regional and cross-regional) and the risk this entails in terms of cost-sharing seems to be the key issue for the NRAs. The Agency acknowledges this risk but believes that the two issues (i.e. optimisation and cost-sharing of remedial actions) should not be mixed up and that a fair cost-sharing rule can be developed in the framework of Article 76 of the SO Regulation and Article 74 of the CACM Regulation.

The BoR provided comments.

6.4. ACER Opinion on the consistency of the NDPs with the EU-TYNDP (electricity)

The Director informed the BoR on the Agency's Opinion on electricity projects in the national network development plans (NDPs) and their consistency with the project clusters in the TYNDP 2018. He explained that the Agency reviewed the NDPs of all EU Member States regarding their general regulatory framework, inputs, outputs and methodologies used in the development of the NDPs. The Agency concludes that the NDPs are broadly consistent with the EU TYNDP and their consistency has further improved compared to the previous Agency's Opinion on the NDPs. However, the Agency provides several recommendations to enhance the consistency between the NDPs and the EU TYNDP and in order to increase the robustness, credibility and transparency of the NDPs.

7. Gas

7.1. Important AGWG updates

Mr Verdelho provided an update on the ongoing work in the AGWG. The last AGWG meeting took place on 4 April.

Specifically, Mr Verdelho informed the BoR on the work of the Balancing Task Force. Following the case of suspected fraudulent behaviour in 2018 on gas wholesale market a joint ENSTOG - BAL Task Force workshop was organised on 10 May in Brussels. Regarding the Tariffs Task Force, Mr Verdelho informed the BoR that a few countries may miss the deadline for tariff consultation required in the network code. The Tariffs Task Force is finalising the review of issues where the NRAs are responsible for the publication in accordance with Article 29.

7.2. ACER Annual Report on Contractual Congestion at Interconnection Points (6th edition – shortened report) (NC CMP)

The Director informed the BoR that the Agency will publish the sixth edition of the Annual Report on Contractual Congestion at Interconnection Points. The report aims to identify contractual congestion at Interconnection Points (IPs) in the European Union for products sold during 2018 for use in 2018, 2019 or 2020. The report analyses where demand exceeded the offer of firm capacity, and at which IP sides no firm capacity product with a duration of one month or longer was offered. The Director set out some of the conclusions of the report, particularly that significantly more IP sides are labelled as congested this year (35) than last year (17), although the number of CMP-relevant IP sides is similar to last year.

The Report provides several (policy) recommendations to the European Commission.

No comments were provided at the meeting. The Director informed the BoR that a final round of written comments (from the BoR and AGWG) on the report is open until the next AGWG on 22 May. The Director however recommended NRAs to submit comments earlier already where possible.